

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:23-CV-897

IN RE:

CAMP LEJEUNE WATER LITIGATION

)
)
)
)

ORDER

The Court has carefully considered the written submissions of numerous, well-qualified plaintiffs' counsel and has conducted interviews. The Court commends all applicants for their dedication to their clients and this litigation ("Litigation"). The Court also commends the collegiality and commitment to civility that the applications demonstrate, particularly those where counsel were able to join together for the benefit of all claimants. The Court appreciates the scope and scale of the Litigation and the significant commitment it will require.

The Court hereby appoints the following leadership group to fairly, effectively, and efficiently represent the interests of all plaintiffs before this Court.

Lead Counsel:

J. Edward Bell III, Bell Legal Group

Co-Lead Counsel & Government
Liaison:

Zina Bash, Keller Postman LLC

Co-Lead Counsel:

Elizabeth Cabraser, Lieff Cabraser Heimann &
Bernstein, LLP
Michael Dowling, The Dowling Firm PLLC
Robin Greenwald, Weitz & Luxenberg, P.C.
James A. Roberts, III, Lewis & Roberts, PLLC
Mona Lisa Wallace, Wallace & Graham, P.A.

Liaison Counsel:

Charles Ellis, Ward and Smith, P.A.
Hugh R. Overholt, Ward and Smith, P.A.

Lead and Co-Lead Counsel

It shall be the responsibility of Lead and Co-Lead Counsel to provide direction, oversight, and coordination of the responsibilities of the Plaintiffs' Executive and Steering Committees. Lead and Co-Lead Counsel are charged with formulating (in consultation with the Executive Committee) and presenting positions on substantive and procedural issues during the Litigation and directing any work on the Litigation.

The Court intends for this seven-person group, one Lead Counsel and six Co-Lead Counsel, one of whom will continue to serve as the group's Government Liaison, to collaboratively lead and coordinate the activities of all plaintiffs' attorneys in this Litigation. In consultation with the Liaison Counsel and the Executive Committee, Lead Counsel and six Co-Lead Counsel will make all decisions—strategic, procedural, and substantive—on behalf of all plaintiffs. In the event of a disagreement that cannot be resolved by the Lead Counsel and the six Co-Lead Counsel, a majority of the seven leaders (i.e., one Lead Counsel and six Co-Lead Counsel) will resolve the issue.

The duties of Lead and Co-Lead Counsel, and as delegated by such to the Executive or Steering Committees, include but are not limited to the following:

1. Call meetings of counsel for plaintiffs for any appropriate purpose;
2. Along with Liaison Counsel, serve as spokespersons for all plaintiffs during proceedings in response to any inquiries by the Court or opposing counsel, subject to the right of any plaintiffs counsel to present any non-repetitive positions that uniquely affect an individual plaintiff, so long as the presentation does not unduly delay the proceedings;
3. Assign counsel to assist with the litigation to each of the subcommittees designated below as well as develop and staff any other subcommittees that become necessary;

4. Make or submit, along with Liaison Counsel, any oral or written motions to the Court on behalf of plaintiffs, as well as oppose, when necessary, any motions submitted by the United States involving matters within Lead and Co-Lead Counsel's sphere of responsibilities (except as to matters specifically directed to individual plaintiffs and their counsel);
5. Negotiate and enter into stipulations with the United States regarding the Litigation. All stipulations entered into by Lead and Co-Lead Counsel, except for strictly administrative details such as scheduling, must be submitted for Court approval and will not be binding until the Court has ratified the stipulation;
6. Initiate, coordinate, and conduct the requisite meet and confers with the United States and confer with the United States regarding procedural matters;
7. Convene meetings of the Executive Committee for the purpose of proposing joint action and discussing and resolving matters of concern;
8. Monitor the activities of counsel working at the direction of Lead Counsel or Co-Lead Counsel to ensure that schedules are met and unnecessary expenditures of time and funds are avoided;
9. Conduct reasonable scientific inquiries, studies, or other research necessary to determine if plaintiffs' illnesses are related to their exposure to water at Camp Lejeune;
10. Explore, develop, and pursue all settlement options;
11. Attend status and case management conferences;
12. Oversee common benefit matters;
13. Direct the work of Plaintiffs' Executive Committee and Plaintiffs' Steering Committee, all subcommittees, and any individuals contributing to the Litigation on behalf of claimants;

14. Make strategic decisions with regard to the Litigation and resolution process;
15. Ensure that plaintiffs' counsel follow court orders, meet all deadlines, pursue the Litigation consistent with Federal Rule of Civil Procedure 1, conduct discovery consistent with Federal Rule of Civil Procedure 26, avoid unnecessary expenditures of time and funds, and engage in any negotiations efficiently and effectively;
16. Perform any task necessary to properly coordinate plaintiffs' activities;
17. Perform any other functions as may be expressly authorized or required by this Court;
18. With respect to the Government Liaison, serve as the point person for discussions with the government, including on issues relating to the Navy's intake and settlement process, establishment of an efficient case-management system, and construction of a global database.

Liaison Counsel

Liaison Counsel will have the following responsibilities:

1. Serve as the point of contact between the Court and the plaintiffs' leadership;
2. Assist Lead and Co-Lead Counsel as directed in promoting a just and efficient litigation process;
3. Attend status and case management conferences;
4. Keep pro se litigants apprised of the status and progress of the Litigation;
5. Provide periodic reports to plaintiffs' counsel who are not on Plaintiffs' Executive Committee or Plaintiffs' Steering Committee concerning the status of the Litigation on no less than a quarterly basis;
6. Maintain and distribute an up-to-date, comprehensive service list of all plaintiffs' attorneys involved in this Litigation, and promptly advise the Court of any changes;

7. Ensure that all Orders entered by this Court and all papers filed by the United States are timely distributed to all plaintiffs' attorneys with cases before the Court and not before the Court, to the extent reasonably practicable;
8. Receive and distribute to plaintiffs' counsel, as appropriate, correspondence and pleadings not filed through CM/ECF;
9. Maintain adequate files of all matters, including establishing and maintaining a document or exhibit depository, and, under reasonable terms and conditions, have those documents available for examination by all plaintiffs or their attorneys; and
10. Perform any other administrative functions as may be expressly authorized or required by this Court.

Plaintiffs' Executive Committee

The Plaintiffs' Executive Committee will be chaired by Lead Counsel and Co-Lead Counsel. Lead Counsel and Co-Lead Counsel shall determine the members of the Executive Committee by a majority vote of the Lead Counsel and Co-Lead Counsel. Lead Counsel and Co-Lead Counsel shall notify the Court not later than July 31, 2023, who the members of the Executive Committee are.

The Executive Committee will assist and advise Lead Counsel and Co-Lead Counsel in the undertaking of coordinating and conducting these proceedings. The Executive Committee is charged with forming and populating subcommittees to carry out a comprehensive Litigation plan and ensure oversight, accountability, and coordination. The subcommittees shall include a Plaintiff Criteria/Bellwether Committee; Government Liaison Committee; Database Development Committee; Resolution Committee; Science and Experts Committee; Administrative and Common Benefit Committee; Law and Briefing Committee; and Discovery and ESI Committee.

James A. Roberts, III of Lewis & Roberts, PLLC will chair the Administrative and Common Benefit Committee. Joseph F. Rice of Motley Rice LLC shall be a member of the Resolution Committee. Additional subcommittees may be added by majority vote of Lead Counsel and Co-Lead Counsel.

The Executive Committee will have the following responsibilities:

- 1. Coordinate and oversee the activities of plaintiffs' counsel during this Litigation, as well as monitor and ensure that work conducted by plaintiffs' counsel is reasonably necessary and avoids unnecessary costs and duplication of effort;**
- 2. Determine (after consultation with the Steering Committee and other plaintiffs' counsel, as appropriate) plaintiffs' position on all matters not solely related to an individual plaintiff;**
- 3. Coordinate discovery on behalf of plaintiffs, consistent with the requirements of Federal Rule of Civil Procedure 26, and in conjunction with the Steering Committee and the Discovery and ESI Committee;**
- 4. Identify witnesses to be noticed for deposition, schedule witness depositions, and determine the lead examiner(s) for each noticed deposition;**
- 5. Consult with and employ expert witnesses in conjunction with the Science Committee;**
- 6. Maintain a public website, with an address communicated to all parties, for the purpose of posting orders, schedules, and other basic public information so that all interested persons may keep themselves apprised of the status and progress of the litigation;**
- 7. Delegate specific tasks to other counsel or designated committees, in a manner that ensures that tasks are conducted effectively, efficiently, and economically;**
- 8. Maintain adequate time and disbursement records covering common benefit work of designated counsel and establish guidelines, for approval by the Court as to the keeping of**

time records and expenses; and

9. Perform any other task deemed necessary and proper for the Executive Committee to accomplish its responsibilities as defined by the Court's orders, including organizing subcommittees made up of plaintiffs' attorneys not in the appointed leadership group and assigning them tasks consistent with the duties and obligations of the Executive and Steering Committees.

Plaintiffs' Steering Committee

The Steering Committee will be chaired by Lead Counsel and Co-Lead Counsel. Lead Counsel and Co-Lead Counsel shall determine the members of the Steering Committee by majority vote. Lead Counsel and Co-Lead Counsel shall notify the Court not later than July 31, 2023, who the members of the Steering Committee are.

Members of the Executive Committee also serve as members of the Steering Committee. The Steering Committee will, in part, populate the established subcommittees and, at the direction and with the permission of Lead and Co-Lead Counsel, assist in guiding the work of said subcommittees to efficiently advance the Litigation. At the request and under the supervision of the Executive Committee, the Steering Committee will have the following responsibilities:

1. Initiate, coordinate, and conduct all discovery on behalf of and for the benefit of all plaintiffs in this Litigation;
2. Initiate proposals, suggestions, schedules, or joint briefs, and any other appropriate matter(s) as directed by Lead or Co-Lead Counsel;
3. Develop and propose schedules for the initiation, conduct, and completion of all discovery on behalf of all plaintiffs, together with the Discovery and ESI Committee;
4. Develop and propose procedures for the screening of plaintiffs for bellwether selection;

5. Develop and propose scientific methodologies for plaintiff-harm evaluation;
6. Assemble and prepare “trial packages” that can be used in all cases;
7. Develop and propose resolution strategies.
8. Cause to be issued in the name of all plaintiffs the necessary discovery requests, motions, and subpoenas pertaining to any witnesses and documents needed to properly prepare for the discovery of relevant issues in this Litigation;
9. Submit any motions to the Court on behalf of all plaintiffs including, as necessary, any oppositions to motions submitted by the United States, as directed by Lead or Co-Lead Counsel.
10. Schedule meetings of plaintiffs’ counsel for any appropriate purpose, including coordinating responses to questions of other parties or of the Court; and
11. Perform any other task deemed necessary and proper for the Steering Committee to accomplish its responsibilities as defined by the Court’s orders.

* * * * *

No common work in this Litigation will be undertaken by the Executive or Steering Committee except at the direction, or with permission, of the majority vote of Lead Counsel and Co-Lead Counsel. No pleadings or other papers shall be filed, or discovery conducted on issues common to all plaintiffs except as authorized and signed by majority vote of Lead Counsel and Co-Lead Counsel.

All appointments are of a personal nature. Accordingly, each appointee must assume personal responsibility for the performance of his or her duties. No other attorneys, including members of an appointee’s law firm, may substitute for an appointee in the fulfillment of his or her

exclusive duties, except with prior approval of majority vote of the Lead Counsel and Co-Lead Counsel.

Lead Counsel, in consultation with Co-Lead Counsel, may add attorneys not named as Lead Counsel, Co-Lead Counsel, Executive Committee members, or Steering Committee members, to serve in established subcommittees, to the extent deemed necessary by Lead Counsel in consultation with Co-Lead Counsel; however, any such attorneys shall not be considered to be Lead Counsel, Co-Lead Counsel, or members of the Executive Committee or Steering Committee. The Court may add or replace appointees on request of the plaintiffs' leadership team, or on its own motion, if and as circumstances warrant.

All appointments are made for a one-year period and will expire on July 31, 2024. Counsel may apply for reappointment when their terms expire. A reappointment process will be established at an appropriate time in advance of the expiration date. Application for reappointment must detail the nature and scope of the attorney's work on this Litigation, including the time and resources that he or she expended during the previous term.

All counsel performing work for the common benefit of all plaintiffs must keep detailed and contemporaneous records of their time and expenses devoted to this matter. Those records must reflect the date any legal service was rendered or expense incurred, the nature of the service or expense, and the amount of time spent performing the service or the amount of the expense.

The Court is mindful that counsel within the appointed leadership group will be funding much of the common benefit effort and that each of the counsel within the appointed leadership group have committed that they are both willing and able to advance funding for the common Litigation, as determined necessary by Lead and Co-Lead Counsel. The failure of any member of the appointed leadership group to meet any of the advanced funding obligations as determined by Lead and Co-Lead Counsel may constitute good cause for removal from the leadership group.

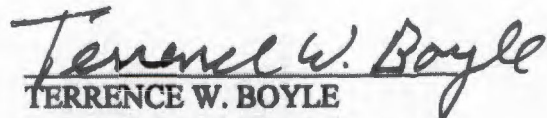
All attorneys carrying out common benefit work who, if found appropriate by the Court, may look to any common fund or agreement for reimbursement or compensation shall maintain and timely submit time and expense records in accordance with guidelines to be set by the Court in a subsequent Order. All requests or applications for reimbursement or compensation shall be subject to the approval of the Court.

All communications from plaintiffs with the Court must be through Lead Counsel, Co-Lead Counsel, or Liaison Counsel as to issues that are common to all plaintiffs. Each plaintiff's individual counsel shall continue to be responsible for each individual plaintiff's case. If circumstances require direct correspondence with the Court by individual counsel, copies of any such communications must simultaneously be served on Lead Counsel, Co-Lead Counsel, and Liaison Counsel.

SO ORDERED. This 19 day of July, 2023.



RICHARD E. MYERS II
Chief United States District Judge



TERRENCE W. BOYLE
United States District Judge



LOUISE W. FLANAGAN
United States District Judge



JAMES C. DEVER III
United States District Judge